

Serial No. 09/473,872

Group Art Unit: 1632

## DRAFT FOR DISCUSSION PURPOSES ONLY

made without prejudice to the assertion of additional claims in a continuation application. No new matter is added.

The pending claim 40 reads as follows:

40. (Amended) A method of correcting a mutation in a tyrosinase gene in cells of a mammalian skin in vivo which comprises delivering to said cells at one or more locations of the mammalian skin an effective amount of a composition comprising a Tyr-A RNA-DNA oligonucleotide for causing stable genetic correction in the tyrosinase gene and a pharmaceutically acceptable carrier such that the correction results in restoration of tyrosinase enzyme activity at said locations of the mammalian skin, wherein the mammalian skin is selected from the group consisting of a human and a mouse.

This and other claims were rejected as obvious over Yoon et al., 1996, Proc. Natl. Acad. Sci., 93:2071-2076 and Alexeev et al., 1998, Nature Biotechnology 16:1343-1346, in view of Uttam et al., 1996, Proc. Natl. Acad. Sci., 93:9079-9084, Christiano et al., 1994, Proc. Natl. Acad. Sci., 91:3549-3553 and Cole-Strauss et al., 1996, Science, 273:1386-1389.

At the outset, Applicant respectfully submits that none of the pending claims are obvious for the reasons stated in the amendment filed by the Applicant on April 26, 2002. Further, in that amendment, Applicant also pointed to certain unexpected results. In response to these arguments, the Examiner averred that "would each and every embodiment provide an unexpected result commensurate in scope with [the claims]". See, page 9 of the Final Office Action of July 31, 2002. Thus, as conceded by the Examiner, the unexpected results are in commensurate with at least certain embodiments, for example, claim 40.

Accordingly, Applicant respectfully deems the claims rejections have been overcome and requests their reconsideration and withdrawal.

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Applicant believes that this amendment places the application in condition for immediate allowance. Reconsideration and the early issuance of a Notice of Allowance are earnestly requested.

Respectfully submitted,

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